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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,319

Applicant(s)

THOMPSON ET AL.

Examiner

Beth Van Doren

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llw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040712.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a Final Office action in response to communications received 07/12/04. Claims 1, 8, 14, and 15 have been amended. Claims 17-46 have been added. Claims 2-46 are now pending in this application.

Response to Amendment

2. Applicant's amendments to claim 8 are sufficient to overcome the claim objections of the previous office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 7, 9-20, 25, 26, and 30-46 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Brien (U.S. 6,587,831).

4. As per claim 1, O'Brien discloses a resource management system comprising:

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a work plan builder module configured to build work plans for workers, said work plan builder module being configured to allow each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a work plan builder allows each worker to specify for different time period different activities the worker plans to do (work, take lunch, take leave, swap shifts, etc.)); and

a computer accessible memory for storing the work plans built by said work plan builder module (See at least figure 3, column 3, lines 24-40, column 4, lines 50-67, and column 5, lines 1-5, which discloses computer accessible memory storing work plans).

5. As per claim 7, O'Brien teaches a resource management system wherein the memory is part of a system server computer and the work plan module is a client process executed on a computer located remotely with respect to the system server computer (See at least figure 1, and column 3, lines 15-60, which discuss the architecture of the system).

6. As per claim 9, O'Brien discloses a resource management system further comprising:

a supervision module configured to access the work plans stored in said memory and to allow review of the work plans by supervisors (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 6, lines 44-50, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a manager module has access to data indicative of all workers that plan to

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perform a particular activity during a particular time period. The manager can review this data).

7. As per claim 10, O'Brien teaches a resource management system wherein the supervision module is configured to communicate data indicative of all workers that plan to perform a particular activity during a particular time period (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 6, lines 44-50, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a manager module has access to data indicative of all workers that plan to perform a particular activity during a particular time period).

8. As per claim 11, O'Brien discloses a resource management system wherein the supervision module is configured to communicate data indicative of total amounts of time that workers plan to perform particular activities (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 6, lines 18-30, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a manager module is configured to communicate data indicative of total amounts of time that workers plan to perform particular activities).

9. As per claim 12, O'Brien teaches a resource management system further comprising:

a forecast module for comparing the work plans stored in said memory with forecasted needs (See at least column 1, lines 45-57, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses forecasting and revisions).

10. As per claim 13, O'Brien discloses a resource management system wherein said forecast module is configured to generate a graphical display indicative of the

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comparison of the work plans and the forecasted needs (See at least column 1, lines 45-57, column 3, lines 25-40, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses graphical displays indicative of the comparison performed of the plan and the needs).

11. As per claim 14, O'Brien teaches a method of managing resources comprising:
- receiving from each of a plurality of workers a work plan in which the worker specifies, for each of a plurality of time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a work plan builder allows each worker to specify for different time period different activities the worker plans to do (work, take lunch, take leave, swap, etc.));
 - storing in a computer-accessible memory received work plans (See at least figure 3, column 3, lines 24-40, column 4, lines 50-67, and column 5, lines 1-5, which discloses computer accessible memory storing work plans); and
 - using stored work plans to generate work schedules for the workers (See at least figure 2, column 2, lines 20-35, column 4, lines 50-67, column 6, lines 5-20, wherein the stored work plans of the workers are used to generate a work schedule).

12. As per claim 15, O'Brien teaches wherein the using stored work plans to generate work schedules comprises comparing the stored work plans with forecast needs (See at least column 1, lines 45-57, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses forecasting and revisions).

13. As per claim 16, O'Brien discloses a method further comprising:

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changing the specified activities for one or more of the workers based on the comparing (See at least column 1, lines 45-57, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses forecasting and revisions).

14. As per claim 17, O'Brien teaches a resource management system wherein:

the workers specify activities for the time periods via an interface comprising cells arranged in rows and columns, each cell representing a particular time period for a particular workday (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 6, lines 25-45, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the workers specify activities).

15. Claims 18, 19, and 20 recite equivalent limitations to claims 17, 1, and 17, respectively, and are therefore rejected using the same art and rationale relied upon above.

16. As per claim 25, O'Brien teaches wherein the work plan builder module enables each worker to generate a default work plan that specifies, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to engage in during that time period and to generate a new work plan by modifying the default work plan (See at least 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the worker specifies his/her parameters for the work schedule to include working, on leave, etc. The template schedule assumes working if not otherwise indicated).

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17. As per claim 26, O'Brien teaches computer-readable storage being configured for remote access by the workers over a communication network (See at least figure 1, column 1, lines 58-65, column 2, lines 5-15, and column 3, lines 5-30).

18. As per claim 30, O'Brien disclose wherein the one or more computer-executable modules further include a real-time status module for providing real-time statistics regarding activities that the workers are currently engaged in (See at least column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

19. Claims 31, 32, 33, 35, 36, and 46 recite equivalent limitations to claims 12, 13, 9, 10, 11, and 17, respectively, and are therefore rejected using the same art and rationale as relied upon above.

20. As per claim 34, O'Brien teaches wherein the supervision module enables the supervisor to enter work plans for one or more workers (See figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 6, lines 18-30, column 7, lines 1-10 and 17-35, and column 8, lines 38-52).

21. As per claim 37, O'Brien teaches wherein the one or more computer-executable modules further include a current day activity monitor module for providing a real-time comparison between a service level corresponding to current real-time work activities and a service level provided by those workers engaged in these work activities during the current time period (See at least column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

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22. As per claim 38, O'Brien wherein the current day activity module is configured to generate one or more graphical displays indicative of the comparison (See at least figure 2-2B, column 1, lines 45-57, column 5, lines 5-37 and 48-67, and column 6, lines 1-40 and 44-65, wherein a revised schedule is determined for the current day and displayed to the user).

23. As per claim 39, O'Brien discloses wherein the current day activity monitor module is configured to determine when a difference between the service level corresponding to current real-time work activities and the service level provided by those workers engaged in these work activities during the current time period exceeds a predetermined level (See at least column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65).

24. As per claim 40, O'Brien teaches wherein the current day activity monitor module is further configured to automatically perform one or more actions if the difference exceeds the predetermined level (See at least column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system is configured to regenerate a schedule is the level is exceeded).

25. As per claim 41, O'Brien discloses wherein one or more actions includes instructing one or more workers to change the activity in which these workers are currently engaged (See at least column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-67, and column 7, lines 1-10, wherein the worker is told to change the activity of the schedule).

26. As per claim 42, O'Brien teaches a resource management system comprising computer-readable storage according to claim 19 (See at least figures 2, 2A, 2B, and 5,

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column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52).

27. As per claim 43, O'Brien teaches a method of managing resources, comprising:

receiving from each of one or more workers a work plan in which the worker specifies a first activity for a first time period during a workday and a second different activity for a second different time period during the same workday (See at least figures 2, 2A, and 2B, column 7, lines 5-35, and column 8, lines 35-50, wherein the worker submits over the network a work plan that specifies a first activity for a first time period (11am-2pm, answering phones or selling) and a second activity for a second time period (2:30pm-3:30pm Lunch). The worker also specifies leave or availability);

generating a work schedule for the workers based on the work plans received from the workers (figure 3, column 2, lines 15-35 and 64-67, column 3, lines 24-40, column 4, lines 10-26 and 50-67, column 5, lines 1-5, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a work schedule is generated based on the plans).

28. As per claim 44, O'Brien discloses wherein the generating of a work schedule is based on comparisons involving a forecasted work volume for the different activities and the work plans for the workers (See at least column 1, lines 45-65, column 2, lines 5-32, column 3, lines 25-50, column 4 lines 30-60, column 5, lines 5-40, column 6, lines 5-17, and column 7, lines 5-15 and 20-40, wherein the schedule is based on comparing the identified work plans of the worker and the forecast of worker need).

29. As per claim 45, O'Brien teaches wherein adjustments are made to one or more of the work plans received from the workers based on the comparisons (See at least column 1, lines 45-65, column 2, lines 5-32, column 3, lines 25-50, column 4 lines 30-60, column

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5, lines 5-40, column 6, lines 5-17 and 44-50, column 7, lines 5-15 and 20-40, and column 8, lines 38-52).

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8, 21, 22, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (U.S. 6,587,831).

31. As per claim 2, O'Brien teaches a resource management system wherein the plurality of different activities include answering telephone calls (See at least column 2, lines 64-67, column 3, lines 1-5, and column 5, lines 10-22, wherein the different work shift activities include answering phone calls). However, O'Brien does not expressly disclose activities including answering electronic mail messages, and answering regular mail messages.

O'Brien discloses developing a work plan for workers performing various activities at various time periods. O'Brien discloses that the activities are at a telephone call center as a preferred environment, but may be applied to an environment for scheduling. It would have been obvious to one of ordinary skill in the art at the time of the invention to include answering electronic mail messages and answering regular mail messages in the scheduling system of O'Brien in order to more efficiently generate schedules for employees working in an environment. Answering electronic mail

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messages and answering regular mail messages are well known job activities performed by workers.

32. As per claim 3, O'Brien discloses a resource management system wherein the plurality of different activities further include vacation time (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the employee can request vacation time).

33. As per claim 8, O'Brien teaches a resource management system wherein said work plan builder module is configured to generate and send messages to workers and to generate a work plan using data input by the worker by the time of the generation (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 6, lines 50-67, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein messages and notifications are sent to workers and wherein the work plan is generated using data entered and stored by the workers before the building of the schedule). However, O'Brien does not expressly disclose sending the notification if the worker does not specify a plan by a work plan deadline.

O'Brien discloses a computer-based tool wherein messages and notifications are sent to workers and wherein a work plan is generated using data entered and stored by the workers before the building of the schedule. It is well known that an employee must specify to an employer his/her work plans by a particular deadline. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send the worker a message if the worker did not specify a plan by a work plan deadline in order to more efficiently create schedules by using the most accurate information so

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revisions need not occur. See at least column 1, lines 45-67, column 2, lines 1-32, and column 6, lines 52-67.

34. As per claim 21, O'Brien discloses wherein the different activities include work activities, vacation time, leave, and requesting time off (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52). However, O'Brien does not expressly disclose sick time.

O'Brien discloses requesting leave from work. Sick leave/time is an old and well-known type of leave taken by a worker. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include sick leave in the worker leave considered by the scheduling system in order to more efficiently create schedules by incorporating all employee constraints, such as shift request, leave, etc. See at least column 1, lines 45-67.

35. Claim 22 recites equivalent limitations to 2 and is therefore rejected using the same art and rationale relied upon above.

36. As per claims 27-29, O'Brien discloses remote access by the workers over a communication network (See at least figure 1, column 1, lines 58-65, column 2, lines 5-15, and column 3, lines 5-30). However, O'Brien does not expressly disclose remote access via a wireless communication device, a kiosk accessible to a plurality of workers, a hand-held computing device.

O'Brien discloses remote access by the workers over a communication network. Wireless devices, kiosks, and handheld computing devices were all well-known remote terminals connectible to a communications network at the time of the invention. It would

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have been obvious to one of ordinary skill in the art at the time of the invention to use a wireless device, kiosk, or handheld computing device as the device that remotely accesses the communications network of O'Brien in order to more efficiently receive and provide scheduling information between workers and managers. See at least column 1, lines 1-20 and 35-40.

37. Claims 4-6 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (U.S. 6,587,831) in view of "National Finance Center-Employee Personal Page Information" (www.nfc.usda.gov).

38. As per claim 4, O'Brien discloses a resource management system wherein the work plan builder module is configured to selectively communicate to each worker data indicative of the approval of vacation time and the work plan builder module is configured to allow the worker to access the work plan builder and view records concerning the worker (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module communicates to the worker if he/she is approved for vacation time and the ability for the worker to access the work plan builder).

However, O'Brien does not expressly disclose selectively communicating data indicative of the vacation time remaining for that worker.

"National Finance Center-Employee Personal Page Information" selectively communicates to each worker data indicative of the vacation time remaining for that worker (See pages 1, 3, and 8, wherein after the employee accesses the system, the

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module communicates to each worker data indicative of the vacation time remaining for that worker).

Both O'Brien and "National Finance Center-Employee Personal Page Information" teach computer-based tools that allow employees to access data concerning leave over a network using identification information. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the vacation time remaining for a worker in the viewable data accessible by the worker of O'Brien in order to increase the user friendliness of the system by providing up-to-date and reliable information concerning the employee's leave and schedule. See page 1 of "National Finance Center-Employee Personal Page Information" and column 1, lines 45-67, and column 2, lines 1-32, of O'Brien, both of which discuss the importance of communicating up to date and accurate information to workers.

39. As per claim 5, O'Brien teaches a resource management system wherein the plurality of activities further includes leave (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module considers leave requests). However, O'Brien does not expressly disclose that this leave is sick time.

"National Finance Center-Employee Personal Page Information" discloses leave as sick time (See pages 1, 3, and 8, which discloses sick time leave of the employee).

Both O'Brien and "National Finance Center-Employee Personal Page Information" teach computer-based tools that allow employees to access data concerning leave over a network using identification information. It would have been obvious to one

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of ordinary skill in the art at the time of the invention to include the sick time of a worker in the viewable data accessible by the worker of O'Brien in order to increase the user friendliness of the system by providing up-to-date and reliable information concerning the employee's leave and schedule. See page 1 of "National Finance Center-Employee Personal Page Information" and column 1, lines 45-67, and column 2, lines 1-32, of O'Brien, both of which discuss the importance of communicating up to date and accurate information to workers.

40. As per claim 6, O'Brien discloses a resource management system wherein the work plan builder module is configured to selectively communicate to each worker data indicative of the approval of leave time and the work plan builder module is configured to allow the worker to access the work plan builder and view records concerning the worker (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module communicates to the worker if he/she is approved for vacation time and the ability for the worker to access the work plan builder).

However, O'Brien does not expressly disclose selectively communicating data indicative of the sick time remaining for that worker.

"National Finance Center-Employee Personal Page Information" selectively communicates to each worker data indicative of the sick time remaining for that worker (See pages 1, 3, and 8, wherein after the employee accesses the system, the module communicates to each worker data indicative of the vacation time remaining for that worker).

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Both O'Brien and "National Finance Center-Employee Personal Page Information" teach computer-based tools that allow employees to access data concerning leave over a network using identification information. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the sick time remaining for a worker in the viewable data accessible by the worker of O'Brien in order to increase the user friendliness of the system by providing up-to-date and reliable information concerning the employee's leave and schedule. See page 1 of "National Finance Center-Employee Personal Page Information" and column 1, lines 45-67, and column 2, lines 1-32, of O'Brien, both of which discuss the importance of communicating up to date and accurate information to workers.

41. Claims 23 and 24 recite equivalent limitations to claims 4 and 6, respectively, and are therefore rejected using the same art and rationale relied upon above.

Response to Arguments

42. Applicant's arguments with regards to the rejections based on O'Brien (U.S. 6,587,831) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that O'Brien does not teach or suggest (1) a work plan builder configured to allow each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period, (2) specifying activities for the time periods via an interface comprising cells arranged in rows and columns, each cell representing a particular time period for a particular day, (3) specifying a first activity for a first time period during a workday and a second different activity for a second different time period during the same workday.

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In response to argument (1), Examiner respectfully disagrees. O'Brien discloses that each worker enters information specifying availability, shift requests (the shifts including work hours and lunch hours), leave request (including for days off), etc. for time periods during one or more workdays. The leave requests, shift requests with work time and lunch times, etc. are all activities specified by the user. See at least column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52. A scheduling engine (or work plan builder) builds an optimal schedule using the information input by the workers over the network and using the forecast information.

In response to argument (2), Examiner respectfully disagrees. O'Brien teaches in at least at least figures 2A and 2B, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 6, lines 25-45, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, that the workers specify activities for the time periods via an interface over a communications network. The interface has cells arranged in rows and columns, each cell representing a particular time period for a particular workday.

In response to argument (3), Examiner respectfully disagrees. See at least figures 2, 2A, and 2B, column 5, lines 25-40, column 7, lines 5-35, and column 8, lines 35-50, wherein the worker submits over the network a selected work plan, the work plan specifying a first activity for a first time period (11am-2pm, answering phones or selling) and a second activity for a second time period (2:30pm-3:30pm Lunch). The worker also specifies leave or availability for time periods in a workday. If something specific is meant, it should be clearly recited in the claims to receive appropriate patentable weight.

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43. Applicant's arguments with regards to the rejections based on O'Brien (U.S. 6,587,831) and "National Finance Center-Employee Personal Page Information" (www.nfc.usda.gov) have been fully considered, but they are not persuasive. In the remarks, Applicant argues (4) it would not have been obvious to modify O'Brien to include the website of "National Finance Center-Employee Personal Page information".

In response to argument (4), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, O'Brien teaches a system remotely accessible over a communications network configured to communicate to each worker data indicative of the approval of vacation time and to allow the worker to access and view records concerning the worker (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52). Therefore, since O'Brien teaches a computer-based tool that allows employees to access data concerning leave over a network using identification information, it would have been obvious to include in this data the vacation time remaining for a worker, as taught by the "National Finance Center-Employee Personal Page information". Examiner maintains this rejection, which is set forth above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kintner et al. (U.S. 6,732,079) discloses a work staffing plan that is entered using a computer and a workload forecast.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

qwd
bvd

October 20, 2004

Susanna Diaz

**SUSANNA M. DIAZ
PRIMARY EXAMINER**

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